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12 *Attorney for Petitioner Charles Smith

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA
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16 Charles Smith,

17 Petitioner,

18 v.

19 William Hutchings, *et al.*,

20 Respondents.
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Case No. 2:20-cv-01781-RFB-VCF

**Unopposed Motion for extension of
time to file Response to Motion to
Dismiss**

(Second Request)

1 **POINTS AND AUTHORITIES**

2 On March 10, 2022, Smith filed his Amended Petition. ECF No. 23. On July 7,
3 2022, Respondents moved to dismiss. ECF No. 29. Smith's original deadline to file a
4 response was August 7, 2022. Smith filed a first motion for an extension of time of 60
5 days to October 7, 2022, to file a response. The request was granted. ECF Nos. 31, 32.

6 Counsel for Smith requests a second extension of time of 60 days to December
7 6, 2022, to file the response to the motion to dismiss. To respond to the timeliness
8 argument, counsel needs to conduct a small investigation, which includes a visit with
9 Smith. Unfortunately, counsel was unable to visit Smith over the past 60 days.
10 Counsel caught his first case of Covid at the end of August, which complicated his
11 ability to work on the response and go on prison visits during three weeks in
12 September.

13 Furthermore, counsel's workload and managerial responsibilities have
14 prevented him from meeting the current deadline. Over the past 60 days, counsel has
15 had to prioritize reviewing a Ninth Circuit brief, an application to file a second or
16 successive petition, two amended petitions in federal court, three state court
17 petitions, a response to a motion to dismiss in federal court. In addition, counsel had
18 to travel to Carson City in late September for an appearance before the Pardons
19 Board. Further complicating counsel's ability to work on the response are the
20 numerous administrative and managerial responsibilities related to his position as
21 Chief of the Non-Capital Habeas Unit. This has included training three new
22 attorneys who started at the end of August and the beginning of September. Counsel
23 anticipates his various administrative and managerial responsibilities will continue
24 over the next 60 days.

25 For these reasons, counsel is requesting an additional 60 days to December 6,
26 2022, to file the response.

1 On October 6, 2022, counsel for respondents, Deputy Attorney General Sheryl
2 Serreze, indicated by email respondents do not oppose this request.

3 This motion is not filed for the purpose of delay, but in the interests of justice,
4 as well as in the interest of Smith. Counsel for Petitioner respectfully requests that
5 this Court grant this motion and order Petitioner to file the response no later than
6 December 6, 2022.


7 Dated October 6, 2022

8 Respectfully submitted,

9 Rene L. Valladares
10 Federal Public Defender

11 /s/ Jonathan M. Kirshbaum
12 Jonathan M. Kirshbaum
13 Assistant Federal Public Defender

14 IT IS SO ORDERED:

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18 **RICHARD E. BOULWARE, II**
19 **United States District Court**

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DATED this 9th day of October, 2022.